

IRS Explains How to Reinstate Automatically Revoked Exempt Status *New Revenue Procedure covers four options, including ways to obtain retroactive reinstatement*

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The IRS has issued a new Revenue Procedure ([2014-11](#)) outlining four ways for tax-exempt organizations that have lost their exempt status for failing to file required tax returns for three consecutive years to regain their exempt status, with possible retroactive reinstatement. The procedures differ based on the size of the organization, the speed after revocation with which it acts and whether it has a claim of “reasonable cause” for failure to file its returns.

Streamlined Retroactive Reinstatement for Small Groups

For organizations that were small enough to be eligible to file Form 990-EZ (currently gross receipts of less than \$200,000 and net assets of less than \$500,000) or the Form 990-N electronic post card (currently gross receipts of less than \$50,000) for each of the three years that caused their revocation, they may have their exempt status reinstated retroactively to the date of revocation if they:

- Have not previously had their exemption automatically revoked, and
- Complete and submit a Form 1023 (application for Section 501(c)(3) charitable exemption) or Form 1024 (application for other exempt status) with the appropriate filing fee not later than 15 months after the later of the date of the revocation letter or the date the revocation appeared on the Revocation List on the IRS website.

Retroactive Reinstatement Process Within 15 Months

Organizations that cannot use the streamlined process, because they had to file a full Form 990 or 990-PF for any of the three years or were previously auto-revoked, may obtain retroactive reinstatement if they:

- Complete and file the appropriate Form 1023 or Form 1024 with the appropriate filing fee within the 15 month period.
- Include with the application a statement establishing that the organization had “reasonable cause” for its failure to file a required return for at least one of the three consecutive years for which it failed to file.
- Include a statement that it has filed required returns for those three years and any subsequent year for which a return was due.
- File the missing returns.

The IRS says that a “reasonable cause” statement must establish that “an organization exercised ordinary business care and prudence in determining and attempting to comply with its annual reporting requirement.” It must have a “detailed description of all the facts and circumstances about why the

organization failed to file, how it discovered the failure and the steps it has taken or will take to avoid or mitigate future failures.” This can be a high hurdle and may prevent many organizations from qualifying for retroactive reinstatement.

Retroactive Reinstatement Process After 15 Months

Those that file for retroactive reinstatement more than 15 months after their revocation must satisfy all of the requirements of those organizations applying within 15 months, but must file a reasonable cause statement establishing reasonable cause for failing to file for all three years during which they failed to file a return. This is an even higher hurdle for obtaining retroactive reinstatement.

Post-Mark Date Reinstatement

For those not qualifying for the streamlined program or seeking retroactive reinstatement for reasonable cause, they must essentially start over and seek reinstatement from the date of a new application. They are required to file the Form 1023 or 1024, as appropriate, with the appropriate user fee and if granted, exemption will begin on the date of the application's postmark.

The IRS will not impose failure to file return penalties on an organization retroactively reinstated if the organization files a proper return (other than a Form 990-N) for the years in question. It says nothing about penalties, or the proper return to file, for organizations that do not obtain retroactive reinstatement.

Under each of the reinstatement methods, the Form 1023 or 1024 application should include at the top of the first page a statement that it is being filed under Revenue Procedure 2014-11 and the specific method of the four that is being utilized. It should be mailed to the IRS at P.O. Box 12192, Covington, KY 41012-0192.

The tax returns for organizations seeking retroactive reinstatement should state “Retroactive Reinstatement” on the first page so that they can be processed within the program. They should be sent to the Internal Revenue Service Center, Ogden, UT 84210-0027.

In a separate answer to Frequently Asked Questions, the IRS says that the organization will continue to be listed on the Auto-Revocation List, which is the official (and historical) list of those groups that have been auto-revoked.

But if the IRS determines that the organization re-qualifies for its exempt status, it will issue a new determination letter and include the organization in its next update of Exempt Organization Select Check (the Pub. 78 database) and indicate on the IRS Business Master List extract that the organization is eligible to receive tax-deductible contributions (if properly qualified). Donors may rely on the new determination letter as of its stated effective date and on the updated official listings.

The IRS ends its new Revenue Procedure with a section headed with a little piece of advice: “Avoid Being Automatically Revoked Again.” It points out that previously revoked organizations are unable in the future to use the streamlined approach for reinstatement.

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